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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,698	12/05/2003	Virginia Tarpinian	2595U.001	4597
21917	7590	01/11/2008	EXAMINER	
MCHALE & SLAVIN, P.A. 2855 PGA BLVD PALM BEACH GARDENS, FL 33410			WILLIAMS, MARK A	
			ART UNIT	PAPER NUMBER
			3673	
			MAIL DATE	DELIVERY MODE
			01/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/729,698	TARPINIAN ET AL.
	Examiner	Art Unit
	Mark A. Williams	3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 October 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12, 14, 16 and 18-21 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12, 14, 16, and 18-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 12, 14, 16, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koch, III, US Patent 5,299,720, in view Erlich, US Patent 6,206,547, and Clark, in view of Kobdish, US Patent 6,186,383, and in view of US Patent 6,572,244. See the embodiment of figures 8-10 of Koch.

Koch provides what is considered a safety handle capable of being used for temporary attachment to a pier piling for use by passengers during boarding and exiting a boat, said safety handle comprising a base member 4 constructed of a relatively flexible sheet of material, said base member further defined as having a front surface 8 and a back surface bounded by a top edge and a bottom edge with a first and second side edge, a handgrip 3 secured to said back surface, said handgrip formed with a receptacle 5a, said receptacle sized so as to be capable of receiving a

light stick, a pair of straps 9 connected to said base member, one said strap adapted to extend around said piling, as claimed. A ridge bridge extends between said legs as claimed. The device may be oriented vertically as claimed.

Koch provides the claimed invention except (1) said front surface adapted to contact an including integrally formed rigid protrusions designed to frictionally engage said base member, as claimed; (2) said receptacle formed from an aperture placed in one of the legs and extending through the bridge, as claimed; (3) said receptacle made of a material permitting light to shine through, wherein said base member and said hand grip are plastic, and said hand grip receptacle being translucent, as claimed; (4) said base member is wood; and (5) said strap is of a length sufficient to encircle said piling between 6 inches and 20 inches.

Regarding (1), Koch discloses the handle for engagement with a metal surface. Kobdish teaches rigid projections 26 for engagement with metal surfaces for improved clamping/attachment purposes. It would have been obvious to include rigid projections on the device of Koch for the purpose of improving attachment of the device, particularly to metal surfaces.

Regarding (2), Erlich provides an example of a lighted handle with a receptacle there in for the purpose of allowing the user of the device to see under dark conditions. Regarding the limitation of an aperture placed in one of the legs,

Clark provides teaching of a light stick receiving in an aperture, allowing for insertion. It would have been obvious at the time the invention was made for one skilled in the art to modify the design of Koch to include such a limitation, so that one or more of the bridge parts 3 would provide a light source allowing a user to see under dark conditions. Regarding the aperture, such a limitation is obvious so as to allow for insertion of the light stick.

Regarding (3) and (4), it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in these ways, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. One purpose of such a modification might be aesthetic appeal.

Regarding (5), it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in this way, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

3. Applicant's arguments with respect to the claims of record have been considered but are not persuasive.

Applicant argues that the applied art does not involve a piling. However, it is not necessary that the applied art specifically cite a piling as intended use. The structure of the applied art meets the claim limitations, and would be capable of functioning as claimed, at least for a hypothetical piling.

Applicant argues that modifications to Koch would make it inoperable. However, the examiner disagrees. Such modifications as citing in the above rejection are within the scope of one skilled in the arts capacity to modify the device, so that it would function as intended.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Williams
1/7/08
MW



CARLOS LUGO
PRIMARY EXAMINER